APPL. NO.	:	09/786,212
APPLICANT	:	Wright, *et al.*
PCT NO.	:	PCT/CA00/01347
ASSIGNEE	:	GeneSense Technologies, Inc.
FILED	:	November 20, 2000
TITLE	:	Antisense Oligonucleotide Sequences Derived from groEL and groES as Inhibitors of Microorganisms
TC/A.U.	:	Not Yet Assigned
EXAMINER	:	Daniel Stemmer
DOCKET NO.	:	46083.011200

March 29, 2004
Boston, Massachusetts

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, VA 22313-1450

ATTENTION: Office of PCT Legal Administration

RENEWED PETITION UNDER 37 C.F.R. 1.137(b)

The above-identified application became abandoned for failure to file a timely and proper Response to the Office Action mailed April 14, 2003, which set a one-month period for response. Applicants filed a Petition for Revival on July 14, 2003. Applicants' Petition was dismissed by the Examiner on February 4, 2004.

APPLICANTS HEREBY RENEW THEIR PETITION FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

(1) *Petition fee;*

(2) *Proposed response and/or issue fee;*

(3) *Terminal disclaimer with disclaimer fee (required for all utility and plant applications filed before June 8, 1995, and for all design applications; and*

(4) *Statement that the entire delay was unintentional.*

1. Petition fee:

☒ Small entity – fee $650.00 (37 C.F.R. 1.17(m)) was enclosed with Applicant's response dated July 14, 2003, thus no fee was enclosed herewith. The Commissioner is hereby authorized to charge any additional fees that may be due, or to credit any overpayment to Deposit Account No. 50-2678, Ref. No. 46083.011200.

☐ Other than small entity – fee $1,300.00 (37 C.F.R. 1.17(m)).

2. Proposed response and/or fee:

☒ Response to Notice of Defective Response; paper copy of sequence listing; sequence listing in computer readable form, pursuant to 37 C.F.R 1.825(d); and Statement in Support of CRF, pursuant to 37 C.F.R. 1.821(f) and (g) are enclosed herewith.

3. Terminal disclaimer with disclaimer fee:

☐ A terminal disclaimer equivalent to the number of months from abandonment to the filing of this petition (and disclaimer fee of $55.00 (37 C.F.R. §1.20(d)) for a small entity) is enclosed herewith.

☒ Since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required.

4. Statement:

The entire delay in filing the required reply from the due date until the filing of the present petition was unintentional (37 C.F.R. §1.137(b)(3)).

5. Enclosures:

☒ Response
☐ Revival Petition Fee
☐ Terminal Disclaimer Form and Fee
☐ Small Entity Form
☒ Others: Copy of Notification of Defective Response (3 pgs.); Response to Notice of Defective Response (2 pgs.); Computer-readable Form of Sequence Listing (1 diskette); Paper copy of Sequence Listing (96 pgs.); Statement in Support of CRF (2 pgs.); and Return Postcard.

Respectfully submitted,

Michel Morency, Reg. No. 50,183
James F. Ewing, Reg. No. 52,875
Attorneys for Applicants
GREENBERG TRAURIG, LLP
One International Place
Boston, Massachusetts 02110
Tel: (617) 310-6000
Fax: (617) 310-6001

Dated: March 29, 2004
#103742 v1

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www.uspto.gov

MICHEL MORENCY
GREENBERG TRAURIG, LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

In re Application of
WRIGHT et al.
Application No.: 09/786,212
PCT No.: PCT/CA00/01347
Int. Filing Date: 20 November 2000
Priority Date: 18 November 1999
Attorney Docket No.: 21892-010
For: ANTISENSE OLIGONUCLEOTIDE SEQUENCES DERIVED FROM GROEL AND GROES AS INHIBITORS MICROORGANISMS

DECISION

Docketed by: AMD / 2.11.04
Response Due: 3.4.04 Reminder
Due Date: 4.4.04 DUE
8.4.04 Final w/ EXT. FEES

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN UNINTENTIONALLY-ABANDONED PATENT APPLICATION UNDER 37 C.F.R. 1.137(b)" filed 14 July 2003.

BACKGROUND

On 20 November 2000, applicants filed international application PCT/CA00/01347, which claimed a priority date of 18 November 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 25 May 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 May 2001, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 18 April 2002.

On 01 March 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of inventors.

On 17 December 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that applicant must provide an initial or substitute computer readable form (CRF) of the "Sequence Listing" . The NOTIFICATION set a two-month extendable period for reply.

On 15 February 2002, applicant submitted a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) AND SUBMISSION OF REVOCATION BY ASSIGNEE AND NEW POWER OF ATTORNEY".

On 01 April 2002, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the computer readable form submitted was found to be damaged and/or unreadable as indicated on an attached CRF Diskette Problem Report. This NOTIFICATION set a one month non-extendable period for response.

On 23 October 2002, a Notification was mailed indicating that the mailing address on the NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) was not the mailing address set forth in the change of correspondence address filed 15 February 2002, that this error was discovered after a status inquiry to the PCT Help Desk on 15 October 2002, and that because the NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) mailed 01 April 2002 included an incorrect address, it was **VACATED**. The Notification also indicated that the application was being forwarded to the National Stage Processing Branch of the Office of PCT Operations for processing of the submission of revocation and new power of attorney submitted 15 February 2002 including correction of the mailing address in PALM and for preparation and mailing of a new NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) including the corrected address.

On 11 March 2003, applicants submitted a change of correspondence address.

On 14 April 2003, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the computer readable form submitted was found to be damaged and/or unreadable as indicated on an attached CRF Diskette Problem Report. This NOTIFICATION set a one month non-extendable period for response.

On 14 July 2003, applicants submitted the instant "PETITION FOR REVIVAL OF AN UNINTENTIONALLY-ABANDONED PATENT APPLICATION UNDER 37 C.F.R. 1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), the Biotechnology Systems Branch of the Scientific and Technical

Information Center (STIC) (see "Raw Sequence Listing Error Report", copy enclosed) detected errors when processing the computer readable form submitted 14 July 2003. The enclosed Report explains the detected errors.

As to item (2), applicant submitted the petition fee for a small entity on 14 July 2003.

As to item (3), a grantable petition has not yet been filed.

CONCLUSION

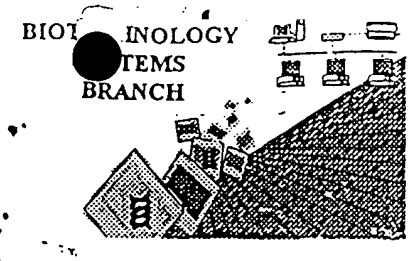
The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice, for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

Enc.: "Raw Sequence Listing Error Report"



RAW SEQUENCE LISTING ERROR REPORT

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors when processing the following computer readable form:

Application Serial Number: 09/786,212-B
Source: PCT
Date Processed by STIC: 1/14/04

THE ATTACHED PRINTOUT EXPLAINS DETECTED ERRORS.
PLEASE FORWARD THIS INFORMATION TO THE APPLICANT BY EITHER:

1) **INCLUDING A COPY OF THIS PRINTOUT IN YOUR NEXT COMMUNICATION TO THE APPLICANT, WITH A NOTICE TO COMPLY or,**
2) **TELEPHONING APPLICANT AND FAXING A COPY OF THIS PRINTOUT, WITH A NOTICE TO COMPLY**

FOR CRF SUBMISSION AND PATENTIN SOFTWARE QUESTIONS, PLEASE CONTACT MARK SPENCER, TELEPHONE: 703-308-4212; FAX: 703-308-4221
Effective 12/13/03: **TELEPHONE: 571-272-2510; FAX: 571-273-0221**

TO REDUCE ERRORED SEQUENCE LISTINGS, PLEASE USE THE CHECKER VERSION 4.1 PROGRAM, ACCESSIBLE THROUGH THE U.S. PATENT AND TRADEMARK OFFICE WEBSITE. SEE BELOW FOR ADDRESS:
http://www.uspto.gov/web/offices/pac/checker/chkr41note.htm

Applicants submitting genetic sequence information electronically on diskette or CD-Rom should be aware that there is a possibility that the disk/CD-Rom may have been affected by treatment given to all incoming mail.
Please consider using alternate methods of submission for the disk/CD-Rom or replacement disk/CD-Rom.
Any reply including a sequence listing in electronic form should NOT be sent to the 20231 zip code address for the United States Patent and Trademark Office, and instead should be sent via the following to the indicated addresses:

1. EFS-Bio (<http://www.uspto.gov/ebc/efs/downloads/documents.htm> , **EFS Submission User Manual** - ePAVE)
2. **U.S. Postal Service:** Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
3. **Hand Carry directly to (EFFECTIVE 12/01/03):**
   U.S. Patent and Trademark Office, Box Sequence, Customer Window, Lobby, Room 1B03, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202
4. **Federal Express, United Parcel Service, or other delivery service to:** U.S. Patent and Trademark Office, Box Sequence, Room 1B03-Mailroom, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202

Revised 10/08/03

PCT

RAW SEQUENCE LISTING
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Does Not Comply
Corrected Diskette Needed
(pg. 6-8)

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160 aggctatcat cactgaaggt ctgaaagctg ttgctgcggg catgaacccg atggacctga 420
161 aacgtggtat cgacaaagcg gttaccgctg cagttgaaga actgaaagcg ctgtccgtac 480
162 catgctctga ctctaaagcg attgctcagg ttggtaccat ctccgctaac tccgacgaaa 540
163 ccgtaggtaa actgatcgct gaagcgatgg acaaagtcgg taaagaaggc gttatcaccg 600
164 ttgaagacgg taccggtctg caggacgaac tggacgtggt tgaaggtatg cagttcgacc 660
165 gtggctacct gtctccttac ttcatcaaca agccggaaac tggcgcagta gaactggaaa 720
166 gcccgttcat cctgctggct gacaagaaaa tctccaacat ccgcgaaatg ctgccggttc 780
167 tggaagctgt tgccaaagca ggcaaaccgc tgctgatcat cgctgaagat gtagaaggcg 840
168 aagcgctggc aactgctgtt gttaacacca ttcgtggcat cgtgaaagtc gctgcggtta 900
169 aagcaccggg cttcggcgat cgtcgtaaag ctatgctgca ggatatcgca accctgactg 960
170 gcggtaccgt gatctctgaa gagatcggta tggagctgga aaaagcaacc ctggaagacc 1020
171 tgggtcaggc taaacgtgtt gtgatcaaca aagacaccac cactatcatc gatggcgtgg 1080
172 gtgaagaagc tgcaatccag ggccgtgttg ctcagatccg tcagcagatt gaagaagcaa 1140
173 cttctgacta cgaccgtgaa aaactgcagg aacgcgtagc gaaactggca ggcggcgttg 1200
174 cagttatcaa agtgggtgct gctaccgaag ttgaaatgaa agagaaaaaa gcacgcgttg 1260
175 aagatgccct gcacgcgacc cgtgctgcgg tagaagaagg cgtggttgct ggtggtggtg 1320
176 ttgcgctgat ccgcgtagcg tctaaactgg ctgacctgcg tggtcagaac gaagaccaga 1380
177 acgtgggtat caaagttgca ctgcgtgcaa tggaagctcc gctgcgtcag atcgtattga 1440
178 actgcggcga agaaccgtct gttgttgcta acaccgttaa aggcggcgac ggcaactacg 1500
179 gttacaacgc agcaaccgaa gaatacggca acatgatcga catgggtatc ctggatccaa 1560
180 ccaaagtaac tcgttctgct ctgcagtacg cagcttctgt ggctggcctg atgatcacca 1620
181 ccgaatgcat ggttaccgac ctgccgaaaa acgatgcagc tgacttaggc gctgctggcg 1680
182 gtatgggcgg catgggtggc atgggcggca tgatgtaatt gccctgcacc tcgcagaaat 1740
183 a 1741
185 <210> SEQ ID NO: 5
186 <211> LENGTH: 2401
187 <212> TYPE: DNA
188 <213> ORGANISM: Streptococcuc pneumoniae
190 <400> SEQUENCE: 5
191 tacccgtcgc tttgagaaaa atggtcagat gaattatgta accgaagtcc ttgtgacagg 60
192 attccaactc ttggaaagtc gtgcccaacg tgctatgcgt gaaaataatg caggccaaga 120
193 tttggcagat ttggtcttgg aagaggaaga attgccattt taagaattaa aaagtctgag 180
194 ttggtctcag gctttttatc ttgagaaagt cagacttttt tcttgactat ttctgaccaa 240
195 gtgatacaat agaattatga attagcactc cagttcaaag agtgctaata atatctatct 300
196 cattatggag gaaatcagat gttgaaacca ttaggggacc gtgtgctctt aaaaatagaa 360
197 gaaaaagaac aaaccgttgg aggctttgtc cttgcaggct cagcccaaga aaaaaccaaa 420
198 acagctcaag ttgtggctac tggacaaggt gttcgtacct tgaacggtga cttggttgct 480
199 ccaagtgtta aaactggaga tcgtgtctta gttgaagccc acgcaggtct tgatgtcaaa 540
200 gatggcgatg aaaagtacat catcgtaggc gaagctaaca ttttggcaat cattgaggaa 600
201 tagaaggaga aagtaagtat gtcaaaagaa attaaatttt catcagatgc ccgttcagcc 660
202 atggttcgtg gtgtcgatat ccttgcagac actgttaaag taaccttggg accaaaagat 720
203 cgcaatgtcg ttcttgaaaa gtcattcggt tcacccttga ttaccaatga cggtgtgacc 780
204 attgccaaag aaatcgaatt ggaagaccat tttgaaaata tgggtgctaa gttagtatca 840
205 gaaatagctt ctaaaaccaa tgatatcgca ggtgacggga ctacgactgc aacagtcttg 900
206 acccaagcta tcgtccgtga aggaatcaaa aacgtcacag caggtgcaaa tccaatcggt 960
207 attcgtcgtg ggattgaaac agcagttgcc gcagcagttg aagctttgaa aaacaacgcc 1020
208 atccctgttg ccaataaaga agctatctct caagttgcag ccgtatcttc tcgttctgaa 1080
209 aaagttggtg agtacatctc tgaagcaatg gaaaaagttg gcaaagacgg tgtcatcacc 1140
210 atcgaagagt cacgtggtat ggaaacagag cttgaagtcg tagaaggaat gcagtttgac 1200

RAW SEQUENCE LISTING DATE: 01/14/2004
PATENT APPLICATION: US/09/786,212B TIME: 12:17:33

Input Set : E:\seq listing1.txt
Output Set: N:\CRF4\01142004\I786212B.raw

211 cgtggttacc tttcacagta catggtgact gatagcgaaa aaatggtggc tgaccttgaa 1260
212 aatccgtaca ttttgattac agacaagaaa atttccaata tccaagaaat cttgccactt 1320
213 ttggaaagca ttctccaaag caatcgtcca ctcttgatta ttgcggatga tgtggatggc 1380
214 gaggctcttc caactcttgt tttgaacaag attcgtggaa ccttcaacgt agtagcagtc 1440
215 aaggcacctg gttttggtga ccgtcgcaaa gccatgcttg aagatatcgc catcttaaca 1500
216 ggcggaacag ttatcacaga agaccttggt cttgagttga aagatgcgac aattgaagct 1560
217 cttggtcaag cagcgagagt gaccgtggac aaagatagca cggttattgt agaaggtgca 1620
218 ggaaatcctg aagcgatttc tcaccgtgtt gcggttatca agtctcaaat cgaaactaca 1680
219 acttctgaat ttgaccgtga aaaattgcaa gaacgcttgg ccaaattgtc aggtggtgta 1740
220 gcggttatta aggttggagc cgcaactgaa actgagttga aagaaatgaa actccgcatt 1800
221 gaagatgccc tcaacgctac tcgtgcagct gttgaagaag gtattgttgc aggtggtgga 1860
222 acagctcttg ccaatgtgat tccagctgaa gctaccttgg aattgacagg agatgaagca 1920
223 acaggacgta atattgttct ccgtgctttg gaagaacccg ttcgtcaaat tgctcacaat 1980
224 gcaggatttg aaggatctat cgttatcgat cgtttgaaaa atgctgagct tggtatagga 2040
225 tttaacgcag caactggcga gtgggttaac atgattgatc aaggtatcat tgatccagtt 2100
226 aaagtgagtc gttcagccct acaaaatgca gcatctgtag ccagcttgat tttgacaaca 2160
227 gaagcagtcg tagccaataa accagaacca gtagccccag ctccagcaat ggatccaagc 2220
228 atgatgggcg ggatgatgta agctttctat agaaaacaac ttataaaaaa cacaaaagga 2280
229 gggaatgact aacccttctt tttataggct ctttgtcaac tgtagtgggt tgaagtcagc 2340
230 taagctcgag aaaggacaaa tttcgtcctt tctttttga tgttcaaagc gataaaaatc 2400
231 c 2401
233 <210> SEQ ID NO: 6
234 <211> LENGTH: 2107
235 <212> TYPE: DNA
236 <213> ORGANISM: Streptococcus pneumoniae
238 <400> SEQUENCE: 6
239 tcttggaaga ggaagaattg ccattttaag aattaaaaag tctgagttgg tctcaggctt 60
240 tttatcttga gaaagtcaga ctttttttctt gattatttct gactaagtga tacaatagaa 120
241 ctatgaatta gcactcaggt ataaagagtg ctaataatat ctatctcatt atggaggaaa 180
242 tcagatgttg aaaccattag gggaccgttt ggtcttaaaa gtagaagaaa aagaacaaac 240
243 tgttggaggc tttgttctcg caggttcagc ccaagaaaaa accaaaacag cccaagttgt 300
244 ggctactgga caaggtgttc gtaccttgaa cggtgacttg gttgctccaa gtgttaaaac 360
245 tggagaccgt gtcttagttg aagcccacgc aggtcttgat gtcaaagatg gcgatgaaaa 420
246 gtatatcatc gtaggcgaag ctaacatctt ggcaatcatt gaagaataga aggagaaagt 480
247 aagtatgtca aaagaaatta aattttcatc agatgcccgt tcagctatgg tccgtggtgt 540
248 cgatatcctt gcagatactg ttaaagtaac cttgggacca aaaggtcgca atgtcgttct 600
249 tgaaaaatca tttggctcac cattgattac caatgacggt gtgactattg ccaaagaaat 660
250 tgaattagaa gaccattttg aaaatatggg tgccaaattg gtatcagaag tagcttctaa 720
251 aaccaatgat atcgcaggtg acgggactac gactgcaaca gtcttgaccc aagctatcgt 780
252 ccgtgaagga atcaaaaacg tcacagcagg tgcaaatcca atcggtattc gtcgtgggat 840
253 tgaaacagca gttgccgcag cagttgaagc tttgaaaaac aacgccatcc ctgttgccaa 900
254 taaagaagct atcgctcaag ttgcagccgt atcttctcgt tctgaaaaag ttggtgagta 960
255 catctctgaa gcaatggaaa aagttggcaa agacggtgtc atcaccatcg aagagtcacg 1020
256 tggtatggaa acagagcttg aagtcgtaga aggaatgcag tttgaccgtg gttacctttc 1080
257 acagtacatg gtgacagata gcgaaaaaat ggtggctgac cttgaaaatc cgtacatttt 1140
258 gattacagac aagaaaattt ccaatatcca agagatcttg ccacttttgg aaagcattct 1200
259 ccaaagcaat cgtccactct tgattattgc ggatgatgtg gatggcgagg ctcttccaac 1260
260 tcttgttttg aacaagattc gtggaacctt caacgtagta gcagtcaagg cacctggttt 1320
261 tggtgaccgt cgcaaagcca tgcttgaaga tatcgccatc ttaacaggcg gaacagttat 1380

RAW SEQUENCE LISTING ERROR SUMMARY DATE: 01/14/2004
PATENT APPLICATION: US/09/786,212B TIME: 12:17:34

Input Set : E:\seq listing1.txt
Output Set: N:\CRF4\01142004\I786212B.raw

Error Explanations

Use of <220> Feature(NEW RULES):
Sequence(s) __are missing the <220> Feature and associated headings.
Use of <220> to <223> is MANDATORY if <213> ORGANISM is "Artificial Sequence" or"Unknown". Please explain source of genetic material in <220> to <223> section (See "Federal Register," 6/01/98, Vol. 63, No. 104,pp.29631-32) (Sec.1.823 of new Rules)

Seq#:266

SAMPLE Page of check. To
8

<210> SEQ ID NO 266
<211> LENGTH: 20
<212> TYPE: DNA
<213> ORGANISM: Artificial Sequence
<220> FEATURE:
<223> OTHER INFORMATION: :
<400> SEQUENCE: 266
cacaccatcg ttgcccacac

mandatory>
Please explain <213> organism response if it is Artificial/Unknown Per Sequence Rules. Please see error explanation on page 6.

The type of errors shown exist throughout the Sequence Listing. Please check subsequent sequences for similar errors.

VERIFICATION SUMMARY
PATENT APPLICATION: US/09/786,212B

DATE: 01/14/2004
TIME: 12:17:34

Input Set : E:\seq listing1.txt
Output Set: N:\CRF4\01142004\I786212B.raw

L:11 M:270 C: Current Application Number differs, Replaced Current Application Number
L:12 M:271 C: Current Filing Date differs, Replaced Current Filing Date
L:3326 M:220 C: Keyword misspelled or invalid format, <213> ORGANISM for SEQ ID#:266
L:3328 M:258 W: Mandatory Feature missing, <220> Tag not found for SEQ#:266, <213> ORGANISM:Artificial Sequence
L:3328 M:258 W: Mandatory Feature missing, <223> Tag not found for SEQ#:266, <213> ORGANISM:Artificial Sequence
L:3328 M:258 W: Mandatory Feature missing, <223> Blank for SEQ#:266,Line#:3328